

Application No. 10/568,364  
Filed: February 14, 2006  
TC Art Unit: 1644  
Confirmation No.: 1148

REMARKS

Pending claims 1, 4 and 6-9 have been rejected as obvious over Marie et al. in view of Levinson. Claims 10-14 have been rejected as anticipated by Romaschin, claims 10 and 14 also having been deemed anticipated by Rang et al. Various rejections have also been made under 35 USC § 112. These rejections are respectfully traversed and reconsideration is requested for the reasons given below. Claims 10-14 are cancelled herein, without prejudice, and claims 1 and 8 have been amended.

Claim 14 has been objected to as improper. As claim 14 has been cancelled, Applicants submit that the objection has been made moot.

Claims 1-14 have been rejected as indefinite. The appropriate claims have been amended and Applicants submit that the rejection has been overcome.

Claims 1-14 have been rejected as not satisfying the written description requirement. The appropriate claims have been amended and Applicants submit that the rejections have been overcome.

Claims 10-14 have been rejected as anticipated by Romaschin, claims 10 and 14 also having been deemed anticipated by Rang et al. Applicants submit that as these claims have been cancelled, the rejections have been made moot.

Application No. 10/568,364  
Filed: February 14, 2006  
TC Art Unit: 1644  
Confirmation No.: 1148

Claims 1, 4 and 6-9 have been rejected as obvious over Marie et al. in view of Levinson. Applicants have amended claim 1 to indicate that unfractionated samples are activated in the method of the invention. In contrast, Marie et al. teach separating out polymorphonuclear cells from the blood sample, which is a whole different level of processing, prior to activation of the cells (p. 3440, col. 1). In addition, Marie et al. noted that immune suppression was going on but did not ascribe a quantitative value to that suppression nor suggest how to do so. A combination of Levinson with the primary reference would not cure these deficiencies. Therefore, Applicants submit that even a combination of these two references would not teach all aspects of the Applicants' invention, and thus the rejection for obviousness has been overcome.

Applicants submit that all claims are in condition for allowance and such action is requested.

- 6 -

Attorney Docket No. BU-101XX  
WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEBOVICI LLP  
TEL. (617) 542-2290  
FAX. (617) 451-0313

Application No. 10/568,364  
Filed: February 14, 2006  
TC Art Unit: 1644  
Confirmation No.: 1148

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

LAWRENCE J. SAUBERMANN et al.

By: Holliday C. Heine  
Holliday C. Heine, Ph.D.  
Registration No. 34,346  
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEBOVICI LLP  
Ten Post Office Square  
Boston, MA 02109  
Telephone: (617) 542-2290  
Telecopier: (617) 451-0313

HCH/dvm

372155.1

- 7 -

Attorney Docket No. BU-101XX  
WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEBOVICI LLP  
TEL. (617) 542-2290  
FAX. (617) 451-0313